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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,639	11/05/2002	Jeffrey L. Rice	3707	5968
27256	7590	01/07/2004		
ARTZ & ARTZ, P.C. 28333 TELEGRAPH RD. SUITE 250 SOUTHFIELD, MI 48034				
EXAMINER				
JUSKA, CHERYL ANN				
ART UNIT		PAPER NUMBER		
1771				

DATE MAILED: 01/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/065,639

Applicant(s)

RICE ET AL.

Examiner

Cheryl Juska

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 November 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of claims 12-20 in the paper filed August 25, 2003, is acknowledged. Applicant elected with traverse, but because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 1-11 are hereby withdrawn as non-elected.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 18 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 18 indefinite because the first phrase of the claim appears to be redundant of the parent claim 12, while the second phrase lacks proper antecedent basis for the 'extruder' limitation.

5. Claim 20 is indefinite because it is unclear if the claimed pressure of 20-25 tons is long, short, or metric tons, and if said pressure is tons per square inch, square foot, or square meter.

*Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 12, 14, 15, and 18 are rejected under 35 USC 102(b) as being anticipated by US 6,296,733 issued to Hudkins et al.

Hudkins discloses a floor mat and a method of making said floor mat (title). The floor mat comprises a fibrous face cover layer that may be a tufted carpet (i.e., pile tufted into a primary backing) (col. 3, lines 3-7). The backing layer may be a thermoplastic layer that is recyclable with the cover layer (col. 3, lines 8-9). The floor mat is made in an apparatus containing a mold, four presses, and a cooling station (col. 3, lines 61-65). Three presses have one surface heated to a temperature of 121.1-260°C (col. 4, line 66-col. 5, line 7 and col. 5, lines 15-21 and 54-56). The cooling station comprises a press having a temperature of 4.4-48.9°C (col. 5, lines 56-61). The floor mat is made by coupling the cover layer to the thermoplastic backing layer by extrusion of said thermoplastic layer and molding the layers together under sufficient time, temperature, and pressure (col. 6, lines 7-12 and col. 8, lines 19-31). The pressure of the first and second presses ranges from 10 to 50 psi (col. 6, lines 27-30 and 46-47), the pressure of the third press ranges from 50 to 180 psi (col. 6, lines 55-58), and the pressure of the fourth press ranges from 1 to 10 psi (col. 7, lines 42-44). Thus, Hudkins anticipates claims 12 and 18.

With respect to claims 14 and 15, said claims are rejected along with claim 12, since said claims contain structural limitations within a method claim. It has been held that to be entitled to weight in method claims, the recited structural limitations therein must affect the method in a manipulative sense, and not amount to the mere claiming of a use of a particular structure. *Ex parte Pfeiffer*, 135 USPQ 31. There is nothing on record showing that the claimed thermoplastic polymer composition affects the method in a manipulative sense. Hence, the limitations of claims 14 and 15 are not given patentable weight at this time.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 13, 16, 17, 19, and 20 are rejected under 35 USC 103(a) as being unpatentable over the cited Hudkins reference.

Hudkins is silent with respect to the limitations of claim 13, wherein the raw material for the thermoplastic backing layer is introduced into a mixer and mixed. However, it is well known in the art that extruded thermoplastic layers are conventionally made by introducing a raw material into a mixer, heating the thermoplastic material until it flows, and extruding said heated material. Applicant is hereby given Official Notice of this fact. Thus, it would have been obvious to one skilled in the art to employ the method steps of claim 13, since said steps are conventional in the art.

Additionally, it would have been obvious to introduce said raw material into a loss in weight feeder, as is known in the art and as recited in claim 16, since said feeders are also conventional in the art. Furthermore, applicant is hereby given Official Notice that the steps of extruding, palletizing, and extruding the heated pellets are well known in the art of polymers. Thus, it would have been obvious to employ the method steps of claim 16 as a means of performing the extrusion step disclosed by Hudkins, since said steps are conventional means of extruding a polymeric material. Therefore, claims 13, 16, and 17 are rejected as being obvious over the cited prior art.

With respect to claims 19 and 20, Hudkins is silent about the amount of time required for pressing said mat. However, it would have been obvious to one skilled in the art to employ the process time in the amount recited by applicant, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Therefore, claims 19 and 20 are rejected as being obvious over the cited prior art.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Cheryl Juska whose telephone number is 703-305-4472. The Examiner can normally be reached on Monday-Friday 10am-6pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



CHERYL E. HUSKA  
PRIMARY EXAMINER

cj  
December 29, 2003